

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

USDC SDNY  
DOCUMENT  
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LOCAL 3621, EMS OFFICERS UNION, DC-37,  
AFSCME, AFL-CIO, *individually and on behalf of its*  
*members*, RENAE MASCOL, and LUIS RODRIGUEZ,  
*on behalf of themselves and on behalf of all other*  
*similarly-situated individuals*,

Plaintiffs,

-v-

CITY OF NEW YORK; NEW YORK CITY FIRE  
DEPARTMENT; DEPARTMENT OF CITYWIDE  
ADMINISTRATIVE SERVICES; and John and Jane  
Does ##1-20,

Defendants.

18-cv-4476 (LJL)

MEMORANDUM &  
ORDER

LEWIS J. LIMAN, United States District Judge:

“When considering an appeal of a magistrate judge’s ruling on a non-dispositive matter, a district judge ‘shall modify or set aside any portion of the magistrate’s order found to be clearly erroneous or contrary to law.’” *Offor v. Mercy Med. Ctr., Rockville Ctr. Div.*, 2020 WL 13662006, at \*2 (E.D.N.Y. Aug. 18, 2020), *aff’d sub nom. Offor v. Mercy Med. Ctr.*, 2023 WL 2579040 (2d Cir. Mar. 21, 2023) (quoting Fed. R. Civ. P. Rule 72(a)); *see also* 28 U.S.C. § 636(b)(1)(A). “An order is ‘clearly erroneous’ only if a reviewing court, considering the entirety of the evidence, is left with the definite and firm conviction that a mistake has been committed; an order is ‘contrary to law’ when it fails to apply or misapplies relevant statutes, case law, or rules of procedure.” *Id.* (quoting *Centro De La Comunidad Hispana De Locust Valley v. Town of Oyster Bay*, 954 F. Supp.2d 127, 139 (E.D.N.Y. 2013), *aff’d*, 868 F.3d 104 (2d Cir. 2017)).

Defendants’ objections to Magistrate Judge Jennifer Willis’s May 30, 2023 Order, Dkt.

No. 465, are overruled. Defendants are incorrect that Magistrate Judge Willis's decision to allow discovery dating back to 2004 is contrary to law of the case in this action. The Court has never ruled that the parties may not seek discovery dating back to 2004 as part of merits discovery. In fact, in previously ordering the production of "responsive documents from 2012 to the present," Magistrate Judge Sarah Cave specifically stated that it acknowledged "that Plaintiffs have reserved their right to serve supplemental document requests." Dkt. No. 71 at 1. With respect to Magistrate Judge Willis's Rule 26 determination, the Court is not left with the definite and firm conviction that a mistake has been committed.

SO ORDERED.

Dated: June 28, 2023  
New York, New York



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LEWIS J. LIMAN  
United States District Judge